

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION NO.679 OF 1982

THE HON'BLE MR. JUSTICE Y.B. BHATT:

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Appearance:

Miss V.P. Shah, advocate for the petitioners.

Mr. D.D. Vyas, advocate for the respondents.

CORAM: Y.B. BHATT J.

Date of Decision: 12-12-1995

JUDGEMENT

1. This is a revision filed by the plaintiffs-original landlords under section 29(2) of the Bombay Rent Act (hereinafter referred to as 'the said Act'), wherein the respondents are the original defendants-tenants. The landlords had filed a suit for eviction against the tenants on a number of grounds, wherein the trial court dismissed the suit on all the grounds. In the appeal filed by the

landlords, the appellate court confirmed all the findings of the trial court and dismissed the appeal in toto.

2. In the present revision the landlords have urged only three grounds on the basis of which it is submitted that they are entitled to a decree for eviction against the tenants viz. (i) reasonable and bonafide requirements, (ii) illegal subletting on the part of the tenants and (iii) nuisance and annoyance caused by the tenants.

3. After having heard the matter extensively over a period of days and having perused the evidence in detail, I am satisfied that the latter two grounds have no substance and must be rejected. The judgements of the trial court as also the lower appellate court are confirmed to that extent.

4. So far as the ground of reasonable and bonafide requirement is concerned, and looking to the overall evidence on record which has been examined in detail, I am satisfied that the landlord has made out a case for reasonable and bonafide requirement.

4.1 Learned counsel for the respective parties state that no detailed reasons need to be recorded in respect of this finding.

4.2 However, such a finding would require this court to simultaneously consider the question of relative hardship. This question of relative hardship has been completely ignored by the appellate court. It has not even raised the necessary issue or point for determination. It has been satisfied only by recording a finding that the landlord has failed to make out a case of reasonable and bonafide requirement. However, as stated hereinabove, it has now become necessary to examine the question of reasonable and bonafide requirement together with the interconnected question of relative hardship. Obviously it is desirable that this question should be reexamined by the lower appellate court in the light of the evidence on record, and in the light of such other evidence as the parties may choose to lead on the question of relative hardship.

5. In the premises aforesaid, the matter is remanded back to the lower appellate court for examination of the question indicated hereinabove and for a decision thereon in accordance with law. It is clarified that it shall be open to the lower appellate court to permit the concerned parties to lead further evidence on this question, if it considers it necessary.

6. This revision is accordingly disposed of. Rule is

discharged with no order as to costs.

7. In view of the fact that the appeal is an old one, the lower appellate court shall hear and decide the same by according it due priority, and as expeditiously as possible.

8. Writ to be sent to the lower court forthwith.
